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Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez

Addendum

Mission to Ghana*

Summary

The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment undertook a visit to Ghana from 8 to 14 November 2013.

The Special Rapporteur expresses his appreciation to the Government for its willingness to open Ghana to an independent and objective scrutiny of its human rights situation, particularly in regard to a number of critical issues in its criminal justice system and mental health-care practices. He hopes the Government will find his recommendations a useful tool for engaging in a constructive dialogue with all interlocutors to strengthen legal safeguards and improve the living conditions of those deprived of their liberty in all places of detention, including medical facilities and prayer camps.

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I. Introduction

1. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, conducted a visit to Ghana from 8 to 14 November 2013, at the invitation of the Government.

2. The Special Rapporteur met representatives of the Ministry of Foreign Affairs, the Ministry of the Interior, the Ministry of Justice and the Office of the Attorney–General, the chief psychiatrist of the Ministry of Health, members of the Ghana Police and Prisons Services, the Military Legal Directorate and the judiciary, and the Commissioner of the national human rights institution of Ghana, the Commission on Human Rights and Administrative Justice. He also met representatives of United Nations agencies and non-governmental organizations (NGOs).

3. The Special Rapporteur thanks the National Intelligence Agency for facilitating his visit and expresses his appreciation to the Government for providing him with access to all detention facilities in accordance with the terms of reference for fact-finding missions by special rapporteurs (E/CN.4/1998/45, annex, appendix V).

4. Ghana has already welcomed a number of visits by United Nations human rights experts. A meaningful dialogue with the Government has been initiated as a result of the visit of the Special Rapporteur and he looks forward to further collaboration. Ghana is at a critical stage in its development,[1] not only economically but also in advancing fundamental human rights for its citizens. That is an opportunity for Ghana to strengthen its role as a regional leader and advance down a path that prioritizes the human rights and dignity of one of the most marginalized sectors of society, those deprived of their liberty.

5. The Special Rapporteur shared his preliminary findings with the Government on 14 November 2013 at the conclusion of his visit and an advance version of the present report on 7 February 2014. On 28 February 2014 the Government provided comments, which were taken into consideration before the report was finalized.

II. Legal framework

A. International level

6. Ghana has ratified 8 of the 10 core international human rights treaties, most recently the Convention on the Rights of Persons with Disabilities in August 2012. Ghana has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance or the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

7. The State has also ratified the Rome Statute of the International Criminal Court and is a party to the Convention on the Prevention and Punishment of the Crime of Genocide.

B. Regional level

8. In 2011, Ghana made the declaration under article 34 (6) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, accepting the competence of the Court to receive and

[1] International Monetary Fund, Country report No. 13/187, June 2013.

examine cases from individuals and NGOs, in accordance with article 5, paragraph 3, of the Protocol.

C. National level

Constitutional and legislative provisions

9. Article 15, paragraph 2, of the 1992 Constitution of Ghana states that "no person shall … be subjected to (a) torture or other cruel, inhuman or degrading treatment or punishment, (b) any other condition that detracts or is likely to detract from his dignity and worth as a human being". However, the offence of torture, as defined in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, has not yet been included in the Criminal Code, 1960 (Act 29), (CAT/C/GHA/C0/1, para. 9).

III. Assessment of the situation

10. Ghana has emerged from its past of colonialism and military rule and its economic progress has had a stabilizing effect in the region. There remains a strong element of traditional practice that must be engaged with, in order to ensure that human rights take hold in all regions of the country. There is clearly a resource issue in the light of the steps still to be taken, but a key element is also the political will to address urgent issues in both the criminal law and health-care systems to ensure that current practices and existing conditions do not give rise to cruel, inhuman or degrading treatment or punishment, or even torture.

A. Practice of torture and ill-treatment

1. Police Service

11. The legal framework governing the work of the police is the Ghana Police Service Act, 1970 (Act 350). The Inspector-General of Police has overall responsibility for the prevention of crime, the enforcement of law and order, the promotion of the safety of citizens and respect for human rights. There are 651 police stations and posts across 11 regions.

12. The situation on the ground regarding the practice of torture or ill-treatment by the police is one in which abuses do occur in some individual cases during arrest, transfer to police stations and interrogation, but the Special Rapporteur did not find evidence that those abuses were part of a widespread pattern or systemic practice. The Special Rapporteur visited Nkawkaw central police station, Ejisu police station, the Cape Coast regional police station and Kotokuraba central police station. In at least three of the police stations visited, he noted traumatic scars on inmates' bodies that were consistent with allegations of beatings with canes or batons.

13. In Nkawkaw police station the Special Rapporteur examined two detainees who had physical injuries which were consistent with their testimonies of recent beatings by fists or blunt instruments used by police during the course of their arrest, transportation and, in particular, interrogation. This was corroborated by forensic medical examinations, of which the conclusions were that the mistreatment inflicted was normally of short duration, consisting mainly of physical trauma caused by punches, slapping and occasionally blows with objects such as canes or batons.

14. The Police Intelligence and Professional Standards Bureau is an internal mechanism that receives and investigates cases of alleged police brutality and violations of

human rights. According to statistics received, the Bureau has 433 cases pending. Between January 2011 and June 2013 it investigated and found guilty 108 officers who were dismissed from the service, 132 officers who were reduced in rank and 239 who received a warning.

2. Prisons Service

15. The overall responsibility for correctional facilities in Ghana, for the implementation of judicial decisions and for the execution of sentences lies with the Prisons Service under the Ministry of the Interior. The main national legal instrument regulating the treatment of prisoners is section 2, paragraph (a), of the Prisons Service Act, 1972 (NRCD 46), which reiterates article 15 of the 1992 Constitution. Section 25 of the Prisons Service Act stipulates that "any prison officer who in any way tortures, or subjects to cruelty, any prisoner shall be guilty of an offence and liable on conviction to imprisonment not exceeding five years".

16. Engagement with the then Acting Director-General of the Prisons Service was a positive element of the visit. She stated that a shift in attitude was under way, from a purely punitive penal system to a more modern approach to the reform, rehabilitation and reintegration of inmates, in accordance with international human rights standards. The majority of the detainees interviewed by the Special Rapporteur had no complaints about their treatment by prison officials, although they sometimes alleged ill-treatment by the police.

17. Of the 43 prisons in Ghana, the Special Rapporteur visited 9: Ankaful maximum security prison, Nsawam medium security prison, Kumasi and Sekondi central prisons, Kumasi female prison, Ankaful main camp prison, Ankaful open camp prison, the Contagious Diseases Centre and the Senior Correctional Facility for juveniles. Many of the prisons are decaying forts or former slave warehouses built during the colonial era and transformed into prisons after independence; they are in urgent need of extensive repairs.

18. The Special Rapporteur observed that, despite the overcrowding, the remand (pretrial), convicted and death row prisoners are for the most part held in separate sections of the prison and follow different regimes. However, at Sekondi prison he did noted that some juveniles were being held in very overcrowded conditions in the adult remand section. The Government advised that warrants do not state the age of the prisoner, but that investigations are conducted if there is a suspicion of a juvenile being held with adults and if it is established that he or she is a minor, he or she is transferred to the Senior Correctional Centre for juveniles.

19. Owing to the level of overcrowding, the ratio of prison staff to prisoners is severely distorted. In Kumasi prison, one of the most densely overpopulated prisons, the officer-inmate ratio is 1:20 rather than the recommended 1:4 (the national average is 1:7). Those conditions cause heightened tensions. Because of the lack of guards, there appears to be a practice of assigning selected prisoners to have authority over other prisoners in their cell or block.

20. In Kumasi and Sekondi prisons in particular, the Special Rapporteur observed prisoner-on-prisoner violence being committed by certain prisoners designated by the authorities as "black coats". Those prison leaders exercise a high degree of authority within the prison population. The Special Rapporteur examined several detainees in the two prisons and found three cases of clear physical evidence of recent and severe caning. The testimonies he received from detainees indicated that caning is sometimes used as a physical punishment by prison guards, but is most often carried out by prisoners under the

authority of the prison staff.[2] The Government acknowledged the presence of "black coats" and cited prison standing order No. 460, which designates prisoners who have shown good conduct and steady progress, in a special class known as "star class". The Government claims that these prisoners are not given special powers or allowed to exercise disciplinary functions.

21. According to the Government, in 2012 there were 94 deaths in custody, all from natural causes, as a result of malaria, tuberculosis or HIV (no cases of murder, accidental death or suicide were recorded). When a death in custody occurs, it is reported to the police and a coroner (who is also a magistrate) orders an autopsy, which is carried out by doctors under the Ministry of Justice.

B. Safeguards and prevention

22. In the police stations visited, the Special Rapporteur observed case files piled up on the desks of the chiefs of police, without an effective tracking and filing system. In fact, many inmates' case files are simply lost or overlooked.[3]

23. The Special Rapporteur welcomes the "Justice for All" programme, the project to review the remand system, which was established in October 2007 and is overseen jointly by the Supreme Court, the Ministry of Justice and the Attorney-General. The project established special courts in the prisons to try to reduce lengthy delays in the criminal justice system by reviewing the backlog of remand cases, including expired warrants. Over the past four years, 350 remand cases have been reviewed and, according to the Government, the number of prisoners with expired warrants has been reduced from 1,872 to 763 as of December 2013. In 2012, seven special court sittings were held at Nsawam prison, as a result of which 59 remand prisoners were released, 62 granted bail and 27 refused bail. Another programme to try and relieve the burden on the judiciary and speed up the trial process is the establishment of paralegal units at the headquarters of the Prisons Service and at all central prisons to review the backlog of pending cases and identify cases which can be dismissed, proceed to trial, or go to appeal. The Government hopes to receive support to establish a paralegal unit in the Nsawam prison in the future.

Access to a lawyer

24. Section 10, paragraph 1, of the Criminal Procedure Code grants police officers broad powers of arrest without a warrant, including on "reasonable suspicion" that an offence has been or is about to be committed.

25. Article 14, paragraph 2, of the Constitution states that a person shall be informed immediately, in a language he understands, of the reasons for his arrest, restriction or detention, and of the right to a lawyer of his choice. A person also has the right to inform a family member of his arrest and the location of his detention and a right to appear before a magistrate within 48 hours of arrest. Despite these legal safeguards, the Special Rapporteur is concerned that the police do not always bring suspects before a magistrate, as prescribed by law, but deliver suspects directly into custody.

26. A fundamental safeguard against torture and ill-treatment is the right of access to a lawyer at all stages of the investigation process and particularly from the moment of apprehension. Article 14, paragraph 2, of the Constitution provides for that right; however, it is not effectively exercised by indigents who cannot afford a lawyer and this vulnerable group of people comprises the vast majority of those in the criminal justice system. The

[2] See also Amnesty International, "Prisoners are bottom of the pile: the human rights of inmates in Ghana", 2012, p. 27.

[3] Ibid, p. 14.

Legal Aid Scheme Act, 1997 (Act 542), provides legal assistance as a right only to persons charged with capital offences punishable by death or a life sentence. The scheme is not comprehensive enough to cover all criminal offences, so the vast majority of defendants have no access to legal representation.

27. The legal aid system in Ghana is severely underfunded and understaffed: there are only 15 public defenders. In 2012, out of 7,925 cases where legal aid services were provided, only 1,000 were criminal cases. In practice, appointed counsel often fail to appear for remand dates or trials as they are not adequately compensated. Despite the fact that the Bar Association of Ghana mandates the provision of pro bono services as a professional duty, only a few lawyers take on such cases on a regular basis when requested.

28. In 2011, the legal aid scheme identified 1,150 persons in custody with lapsed court warrants, who were subsequently released by the High Court. But there are thousands of inmates who languish in prison, either in remand detention for years or serving lengthy sentences; all are at risk of being subjected to inhumane conditions owing to a lack of legal safeguards. In the words of one prisoner "unless you have money to appeal then you stay in."[4]

Confession statements

29. While suspects appear to be informed by the arresting or interrogation officer about their right to a lawyer, if a suspect cannot afford to pay for a lawyer or the offence is not serious enough for him to be provided with a legal aid lawyer, the police can proceed to the interrogation stage.

30. Section 120, paragraph 2 of the Evidence Act, 1975 (NRCD 323), regulates the taking of evidence in legal proceedings and renders inadmissible as evidence statements made in the absence of "an independent witness (other than a police officer or member of the Armed Forces) approved by the accused." A witness can be a relative, friend or third party who attests that they were present during the taking of the statement and that it was not made under duress. However, the regulation does not refer explicitly to torture or duress and thus the accused are at risk of making a coerced confession during interrogation, especially as the vast majority of defendants lack any legal representation.

31. The representative of the Office of the Attorney-General stated that there must be other corroborating evidence and that a confession alone is not used to secure a conviction, but the Special Rapporteur has not received statistics on the application of the Evidence Act, or information as to whether any officials have been prosecuted and punished for extracting a confession under torture, or if there have been cases where the courts exclude confessions obtained under torture as evidence.[5]

Complaint procedure

32. The Director of the Police Service acknowledged that, as in every country, there may be individual police officers who abuse the rights of suspects. The Police Intelligence and Professional Standards Bureau monitors police conduct but its reports are not made public. Upon receiving a complaint, an investigation is conducted and recommendations made to the Inspector-General of Police. If an officer is found guilty, disciplinary action may be recommended. In serious cases, the police officer involved is referred to the Criminal Investigation Department, which can institute criminal proceedings.

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[4] Ibid.

[5] See article 15 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

33. Section 22, paragraph 1, of the Prisons Service Act provides that a prisoner can make a complaint of assault, maltreatment or intimidation by a prison officer, or neglect or non-performance of duties or other misconduct. The complaint is submitted to the block commander, Director or officer-in-charge of the prison and passed up the chain of command to the regional level and then on to the then Acting Director-General of the Prisons Service under the Ministry of the Interior. According to the Government, only three complaints have been received at the highest level; they involved prisoner-on-prisoner violence and were immediately investigated and appropriate sanctions imposed. There have been no complaints about treatment by prison staff. With nearly 15,000 prisoners living in oppressive conditions under authorities who also work in a difficult environment, the number of complaints seems surprisingly low.

Lack of effective investigation of allegations of torture

34. The Special Rapporteur noted during interviews with detainees that, even when there were allegations of police brutality or use of excessive force, there was a general reluctance to complain and, as a result, few cases appear to have been investigated.

35. During his meeting with the Police Service, the Special Rapporteur was not provided with recent statistical data on allegations of torture and ill-treatment and on the results of any investigations undertaken in respect of law enforcement (CAT/C/GHA/1, paras. 66–75). There was also a lack of information concerning personnel who may be responsible for an offence under section 25 of the Prisons Service Act. It appears that few investigations are conducted and officials are seldom prosecuted.

Burden of proof and independent medical examinations

36. There is a forensic laboratory in Accra under the authority of the Criminal Investigation Department and the Government reported that it was satisfied with the level of forensic expertise. However, the Special Rapporteur notes the absence of routine medical examinations by qualified forensic medical doctors at the police investigation stage, by court order or upon admission to prison. He is also concerned about sections 10–13 of Police Service instruction 171, which provide for medical examinations to be conducted under the control of government medical officers and in the presence of a police officer during supposedly independent medical examinations. Medical assessments requested for forensic purposes are performed by medical staff who have no specific competence in forensic medicine.

Monitoring and inspection of places of detention

37. In accordance with articles 2 and 16 of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Government is obliged to prevent acts of torture and other cruel, inhuman or degrading treatment or punishment. The Commission on Human Rights and Administrative Justice does some prison monitoring, but does not currently receive adequate funding to conduct extensive monitoring. Some national NGOs have a limited monitoring and reporting role, subject to resources.

38. The Police Intelligence and Professional Standards Bureau is mandated to visit police stations to check on those detained in police custody and their treatment by personnel (A/HRC/WG6.14/GHA/1, para. 109) but neither the frequency nor the findings of such visits were ascertained.

Ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

39. The Special Rapporteur welcomes the commitment of the Government of Ghana to ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Ibid., para. 101). In 2009, the

Government took initial steps to submit a bill on ratification to Parliament, but the process has stalled. Ratification of the Optional Protocol and designation of a national preventive mechanism under article 17 are urgently needed for more effective monitoring of all places of detention, particularly in the light of the critical issue of overcrowding. The Commission on Human Rights and Administrative Justice has indicated that it is ready to act as the national preventive mechanism.

C. Conditions of detention

Overcrowding

40. As of November 2013, there was a prison population of 14,101, of which between 20 and 25 per cent were remand detainees. The Prisons Service stated that the total capacity of the prison system is 9,875, indicating an overcrowding rate of 140 per cent. As alarming as that figure is, it is an underestimate of the real rate of overcrowding, because it is based on the number of beds available in relation to the actual prison population. In some prisons, the beds themselves are so close together that, at full capacity or even at somewhat below capacity, living conditions would still be overcrowded.

41. According to the information received from the authorities in the prisons visited by the Special Rapporteur, the overcrowding actually ranges from a "low" of full capacity (100 per cent occupation) to a high of 400 per cent in some prisons, if the total inhabitable capacity of each facility is reasonably assessed. International guidelines require 1.5 to 3 cubic metres of space per inmate, not counting common areas and toilets and showers. The rate of overcrowding is calculated as the actual population divided by such capacity. The overcrowding has been further aggravated by the dilapidated nature of some remand facilities, which were deemed so unfit for purpose that they were ordered to be closed.

42. Ankaful maximum security prison is a modern prison, commissioned in November 2011, to remedy the overcrowding by housing prisoners serving lengthy sentences for serious and violent crimes. The first phase is operational and has an official capacity of 2,000, but at the time of the Special Rapporteur's visit there were only 343 prisoners. The second phase is in a preliminary planning stage and will include a school, workshops, recreation and religious facilities and accommodation for prison officers.

43. With the exception of Ankaful maximum security prison, the open prison camp in Ankaful and the Senior Corrections Facility for juveniles, the prisons visited had alarming rates of overcrowding. The male section of Nsawam prison was holding over five times its official capacity (3,773 inmates for an official capacity of 717) and Kumasi prison was holding over 2.5 times capacity (1,981 inmates for an official capacity of 800). Cell blocks there contained 115 convicted prisoners sharing a space approximately 8 x 5 metres. The remand sections were often even worse, with cells so overcrowded (40 in a cell designed for 4) that inmates were lying head to toe in a foetal position. In Sekondi prison, the inmates slept in shifts, sitting up, owing to the lack of space.

44. The Special Rapporteur also visited the holding cells of several police stations in different regions. The conditions in the cells visited were generally extremely poor. The situation at Nkawkaw police station was particularly bad: 32 inmates were subjected to extreme overcrowding in a small and overheated cell, with no ventilation, water or bedding.

Food

45. The Special Rapporteur welcomes the fact that in 2012 the Government increased the food budget threefold and the Prisons Service now allocates 90 United States cents per inmate per day. However, the authorities openly acknowledge that this amount does not allow for sufficient portions that are nutritionally balanced, owing to the overcapacity rate

in the prison system, and that there is a need to undertake large-scale farming to improve inmates' welfare.

46. There is generally a very low standard of equipment and many of the prison kitchens consisted only of large pots used to produce porridge in the morning and *banku* (corn or cassava dough) or a thin soup that would often be served both for lunch and dinner.

47. The Special Rapporteur received numerous complaints from inmates regarding the quantity of food they were given, but the most frequent complaint was about the quality. He observed an apparent repetition of the dishes provided and an almost total absence of fruit, vegetables or meat. It appears that inmates rely heavily on their families to supplement their food in order to avoid malnutrition.

48. The food at the Ankaful maximum security prison was better than that of other prisons owing to additional funds not attributed to the food budget being available. Nsawam prison supplemented the standard meals with additional vegetables that inmates grew on land within the facility.

Medical care

49. All inmates are registered under the national health insurance scheme and entitled to health-care services. However, in practice medical services provided in prisons fall far short of what international law requires. They are carried out not by doctors but by medical assistants, who are overstretched and so underequipped that even the most basic equipment and medicines are lacking.

50. Owing to harsh prison conditions, many inmates showed signs of illnesses that are preventable and treatable. A number of inmates with health problems or disorders requiring urgent hospitalization had experienced delays or been denied such treatment. Dental care was non-existent. Some inmates had obvious mental disturbances that required neuropsychological or psychiatric care. There are no staff specifically focused on mental health and "the problem and level of mental ill-health in prison is poorly documented".[6] Mentally ill inmates are not routinely identified and therefore not transferred to general or psychiatric hospitals.

51. The then Acting Director-General of the Prisons Service openly acknowledged the problem of attracting and retaining health providers, especially mental health-care personnel, and was engaged with the Ministry of Health, the international community, NGOs and religious groups to try to address shortcomings. Prison officers have been sent on health-related courses in order to provide health-care services to inmates (A/HRC/25/WG.6.14/GHA/1 para. 21).

52. The Special Rapporteur observed that in Ankaful and Nsawam prisons there were screening programmes for inmates upon arrival. However, even the newest facility, Ankaful, had only a visiting medical doctor. The Special Rapporteur interviewed a number of the recent arrivals at the diagnostic centre at Nsawam and other detainees, who stated that they had not been examined by a medical doctor, physically or psychologically. In fact, Nsawam, the most populated prison, has no medical doctor on the staff, even part-time. Nsawam does have a segregated area where detainees are held if it is suspected that they are ill, but as routine screenings upon entry by a doctor are rare to non-existent, an examination is only undertaken when obvious symptoms appear.

53. The Special Rapporteur welcomes the establishment of the contagious disease prison in Ankaful (capacity 60 inmates). However, this centre is unable to treat the number of detainees in the penitentiary system who are suffering from tuberculosis, malaria,

[6] "Prisoners are bottom of the pile", p. 24.

hepatitis or HIV. In the prisons he visited, the Special Rapporteur documented at least one case of tuberculosis and a number of other suspected cases of infectious or contagious diseases. Many places of detention have not received new supplies of drugs since 2012 and are dependent on donations. The diagnostic centre at Nsawam prison was not operational owing to the lack of supplies and Ankaful prison had insufficient medicine to equip its medical clinic. A common feature of all prison infirmaries visited was the extremely limited and insufficient supply of drugs administered to inmates, regardless of the diagnosis and the need for specific medicine or treatment. As a result, inmates rely on relatives to buy their medication.

Sanitation, sleeping arrangements, work and education opportunities

54. In the prisons visited, it appeared that most inmates had access to water and the use of a shower or bucket to wash. However, the level of hygiene was extremely poor owing to overcrowding. The authorities stated that three prisons produced soap and distributed it to the other prisons; however, inmates said that the limited amount of soap available led to frequent skin irritations and other preventable health problems.

55. Those who have access to a toilet often share it with over 100 prisoners and toilets are often overflowing with excrement. Lockdown is generally from 4.30 p.m. to 6 a.m., so at night the prisoners relieve themselves in buckets or plastic bags. The lack of light and ventilation and the heat exacerbate the oppressive nature of the cells. Most inmates sleep on the floor without a mattress, mat or blanket. In the rainy season, wet and damp conditions contribute to poor health.

56. The Special Rapporteur welcomes the efforts by the prison authorities to provide inmates with educational opportunities and skills training (e.g. tailoring, carpentry, weaving). However, as acknowledged by the authorities, those opportunities are very limited; less than 10 per cent of inmates have access to training or work opportunities, mostly owing to lack of resources. In particular, working materials and machines are outdated or need maintenance. Even when opportunities do exist, for example at Ankaful main camp, they are poorly attended by inmates. Some inmates said that their lengthy sentences did not motivate them to participate in any programmes.

57. Ankaful has excellent recreational facilities and at Nsawam there is a large field. However, Kumasi prison, located in the centre of town, has only a small concrete area for outside use. Communal prayer, in all faiths, appeared to be the main activity available.

58. The Special Rapporteur observed education classes at Nsawam and Kumasi prisons and a formal education programme is being introduced into the system, including at Tamale and Wa Central prisons, but it has not yet reached all prisons owing to a lack of infrastructure.

Discipline

59. The Prisons Service Act applies progressive disciplinary steps of an incremental nature, from the temporary denial of some benefits, to loss of remission, to the implementation of more serious disciplinary procedures, such as solitary confinement for up to 28 days, hard labour for up to 28 days, a reduction in food for up to 7 days and corporal punishment in the form of caning. However, the official position of the Prisons Service on caning is that it constitutes a criminal offence pursuant to section 25 of the Act.

60. The Special Rapporteur inspected isolation cells used for major offences but did not see any inmates being held in isolation. In fact, many of these cells are not used for disciplinary measures but to house inmates temporarily, owing to overcrowding. The prison authorities stated that an inmate might be held in an isolation cell for between three and seven days but that isolation for prolonged periods was not a practice, even for serious disciplinary offences. In cases of severe misbehaviour, an ad hoc panel that includes a

high-ranking prison official recommends punishment that is ultimately imposed by the Director of the prison and usually consists of an entry in the inmate's record.

Family visits

61. The Prisons Service Act governs communications and visits from family, friends and legal counsel. Pursuant to section 38, prisoners are entitled to a visit from family or friends once every two weeks. However, these visits are closely monitored by prison staff sitting next to the prisoner and taking notes of the conversation. There is no physical contact and conjugal visits are not permitted. In practice, children under 18 are not allowed to visit. The authorities say this is owing to a lack of facilities to enable meaningful family interaction.

Inmates serving life sentences or on death row

62. Since 1993 there has been a moratorium on executions. The Special Rapporteur welcomes the white paper by the Government in response to the report of the Constitutional Review Commission, in which the Government accepted the recommendation of the Commission to abolish the death penalty (A/HRC/22/6, para. 123.8). However, that recommendation has not yet been implemented. In November 2013, there were 129 prisoners in Nsawam prison who had been sentenced to death and 12 in Kumasi prison. The majority of inmates serving life sentences were also kept at these two prisons. Death-row prisoners are separated from the general population, are held in small, overcrowded, dark and poorly ventilated cell blocks and show signs of severe mental and physical trauma. They are denied access to any educational or recreational activities. These prisoners and those serving life sentences depend heavily on their families to provide food and medication, a burden that causes great economic hardship for their relatives. Many inmates stop receiving family visits as the years pass, which leaves them at greater risk of physical and mental deterioration.

Juveniles

63. Juveniles may only be convicted by a juvenile court and the Senior Correctional Facility in Accra, with a capacity of 300, is the only juvenile facility in the country. When the Special Rapporteur visited it, there were 100 boys aged between 12 and 18 at the facility. The detainees receive formal education at junior high-school level and several have been admitted to senior high school. The centre also offers vocational training in 15 different workshops, including on information and communications technology. The facility is an open camp with communal houses for sleeping. The Special Rapporteur heard no complaints regarding the food and, as described, meals seemed a notch above what is provided in adult prisons. Medical care is provided by medical aides, not professional doctors or nurses, just as in adult prisons. The authorities report that more than 50 per cent of juveniles do not receive family visits, either because the family lives too far away or the boy has been effectively abandoned by his family.

64. The Juvenile Justice Act, 2003 (Act 653), has shifted the focus from discipline to reform and reintegration. Despite that welcome change, the Special Rapporteur clinically documented traumatic physical injuries on seven juvenile inmates, resulting from a severe caning incident that had taken place within the 48 hours prior to the visit of his team. According to the boys' testimonies, eight children had been caned by a prison official as a disciplinary measure. The Special Rapporteur asked the then Acting Director-General of the Prisons Service to conduct an urgent, independent and impartial inquiry to establish accountability for this serious act of torture. The Prisons Service publicly stated that no such treatment would be tolerated, citing article 28 (1) (d) of the Constitution, which gives special protection to children against exposure to physical and moral hazards, and said that the complaint would be investigated without undue delay.

65. The then Acting Director-General of the Prisons Service commissioned a formal inquiry regarding the actions of the authorities at the Senior Correctional Centre. It was found that the Chief Officer, contrary to agreed procedures, had flogged eight juveniles with twelve lashes on the back with a cane as a disciplinary act. Proceedings were initiated against three officers. The main perpetrator, the Chief Officer, has been dismissed from the Prisons Service. Proceedings against the duty officer and officer-in-charge are ongoing and the Special Rapporteur asks to be informed of the outcome.

Women

66. At the time of his visit to Kumasi female prison, there were 177 females in detention. The conditions were generally better than in the male prisons, as overcrowding was less of a factor. However, not all the women were provided with bedding and the space for sleeping and recreational activities was very limited. The Special Rapporteur welcomes the fact that only female officers are deployed in those facilities and that no allegations of mistreatment by prison guards were raised.

67. The Prisons Service has established a mother and baby unit at Nsawam prison, where women who give birth while in custody can keep their babies with them until the age of one. However, at Kumasi some women said their babies were removed after only a few months and then placed with a family member or social services. There is no additional budgetary allocation for supplementary food for pregnant or breastfeeding women.

D. Deprivation of liberty in mental health-care facilities

Psychiatric institutions

68. There is no capacity to deal with mental illness within the prison system and there is also a serious shortage of mental health services in the country in general, with only 12 practising psychiatrists and 600 psychiatric nurses nationwide, for a population of over 25 million. That is only one psychiatrist for over 2 million people.[7] According to the Director of the psychiatric hospital in Accra, to achieve proper care Ghana needs to increase the number of nurses in its three psychiatric hospitals almost sevenfold, from the current 600 to about 4,000.

69. There are only three public psychiatric hospitals and the Special Rapporteur visited two of them, in Accra and Ankaful. Both lacked qualified staff and equipment and had poor sanitation. Owing to the lack of medicine and food, both institutions have considerably reduced the number of patients in their care over the past two years, but the special ward of the psychiatric hospital in Accra where those under court orders are held still had an overcrowding rate of 100 per cent and many patients slept in an open courtyard in inhumane conditions. A number of those interviewed confirmed that there was insufficient food and that they were often hungry. At the Ankaful hospital, patients could move around an internal courtyard but could not otherwise leave their ward.

70. Mental health care is not covered by the national health insurance scheme, on the basis of a widespread assumption that mental health care in hospitals is cost free. However, the hospitals are underfunded and do not provide essential medication, as their annual stock of medicines provided by the Government is insufficient, running out after the first six months of the year, and lacks variety for the range of different psychiatric conditions being treated. Patients are often required to buy their own medicines, which are usually very expensive.

[7] Human Rights Watch, "Like a death sentence: abuses against persons with mental disabilities in Ghana", 2012, p. 28.

71. The lack of recent-generation psychoactive drugs leads to the inadequate treatment of patients. The Special Rapporteur is gravely concerned about the application of electroshock therapy as practised at the psychiatric hospital in Accra, which is administered with the use of restraints, without adequate anaesthesia and not as a last resort. The hospital documents the consent of the patient, but the Special Rapporteur doubts that, in practice, such consent is free and informed, as international standards require.

Prayer camps

72. Prayer camps are privately owned religious institutions that play a large role in Ghanaian society. It is estimated that 70 per cent of the population turn first to a prayer camp to receive spiritual healing in order to deal with any type of illness, in particular mental illness, as it is believed to be caused by evil spirits or demons. There are hundreds of private prayer camps, of which a majority are Christian-based and located in the south of the country, while there are some Muslim camps in the north. The camps are run by prophets, many of them self-proclaimed.

73. These prayer camps are essentially alternative residential facilities for those with mental disabilities, but they currently operate with little oversight and no State regulation. The Ghana Pentecostal and Charismatic Council, an umbrella body for 122 churches and evangelical associations in the country, has an ad hoc committee of elders but their oversight of the prayer camps is limited and practices in the camps are often inconsistent with the guidelines of the Council, which prohibit chaining or fasting of any "sick" person and require the camps to send persons with mental disabilities to hospitals.[8]

74. The Director of the Ankaful psychiatric hospital has taken the initiative of reaching out to the traditional healers to try to coordinate traditional and medical/psychiatric approaches, in order to provide holistic solutions. The Special Rapporteur observed extremely disturbing practices in the two prayer camps he visited. He documented cases of shackling and fasting forced on persons with mental disabilities or in some cases with neurological problems, including children. In Edfuma prayer camp men, women and children were shackled to the walls or floors of their cells. The building holding adult males contained 16 concrete cells laid out like cattle stalls. There was a separate building for women and juveniles where 10 persons were chained to the floor, including a 14 year-old girl and a 7 year-old boy, who exhibited symptoms not of a mental illness but of a neurological disease that required specialized treatment and medication.

75. In Jesus Divine Temple (Nyakumasai) prayer camp, individuals were chained to trees. Some were under wooden shelters or large plastic bags but others were completely exposed to the elements. The main reason for the shackling of patients in the prayer camps, according to the leaders, was the risk of escape or the aggressive behaviour of some patients. However, that reason does not fall within the scope of the exceptions for temporary measures recognized in international standards. In addition, most of the individuals that the Special Rapporteur examined in the two camps were shackled 24 hours a day for prolonged periods - months and in some cases years. The Special Rapporteur saw a man confirmed to be the same individual who had been shackled when visited two years earlier by an NGO and he was still shackled.[9]

76. The traditional leaders told the Special Rapporteur that those individuals were not permitted to leave until the leaders received a message from God that they had been "healed." Some remained even after being discharged, because their families had abandoned them and they could not return to their home communities. It does not appear

[8] Ibid, p. 36.

[9] Letter from Human Rights Watch to the Special Rapporteur, 18 December 2012.

that the patients detained in the prayer camps have ever had their cases reviewed by a court.[10]

77. Many of those interviewed said they had not eaten for several days and were uncertain for how many days they had been chained; some appeared very weak owing to fasting that seemed to have gone on for longer than a week. The prophets confirmed that forced fasting was a key component of the cure as it starved evil spirits and allowed the spirit of God to heal. The Edfuma prayer camp administered a mixture of traditional herbs, which the patients were forced to drink, as it was believed to contain special healing powers.

Mental Health Act

78. The Special Rapporteur welcomes the adoption of the Mental Health Act (Act 846) in 2012. The positive aspects of the legislation are that both psychiatric hospitals and prayer camps will be monitored, there will be an individual complaints system in place and a procedure for persons with mental disabilities to review and challenge their prolonged detention before a judge. The new Act also foresees a mechanism for funding, which is urgently needed in the mental health-care sector.[11] However, the Special Rapporteur notes with concern that no further steps have been taken to implement the Act since its promulgation.

79. The current practice is that family members deliver individuals to a psychiatric hospital or prayer camp, or police remove individuals off the street when they exhibit confused or aggressive behaviour. Even when a person comes voluntarily to a mental health facility, family members or staff routinely make decisions on admission, treatment and discharge, thus effectively denying that person the legal capacity to make his or her own decisions.[12]

80. While the new Act has narrowed the definition of "voluntary" and excluded the possibility of families admitting relatives "voluntarily" without their free and informed consent, it presumes the "incapacity" of persons with mental disabilities. The Special Rapporteur is concerned that this limits their ability to decide where to live and what treatment to receive.

81. Just after the visit of the Special Rapporteur, the Government constituted the Mental Health Board, a critical first step towards implementation of the Act. However, a representative of the mental health community is not among the board members, as has been advocated by civil society. With the oversight body still not functional, there is no mechanism in place to monitor prayer camps effectively and routinely.

IV. Conclusions and recommendations

A. Conclusions

82. **A number of high-ranking officials in the Police and Prisons Services have been involved in United Nations peacekeeping missions, are aware of international human rights standards and appear committed to implementing a more humane approach to law enforcement and corrections. However, many challenges remain for this vision to be realized.**

[10] "Like a death sentence", p. 42.

[11] Ibid. pp. 26 and 27. In 2011, less than 1 per cent of the health-care budget was dedicated to mental health care.

[12] Ibid. p. 56.

83. **There are isolated incidents of torture and ill-treatment by police officers during the initial stages of interrogation. While prisoners did not allege ill-treatment by prison staff, the practice of delegating disciplinary authority to fellow inmates is a corrupt and bad practice that must be eradicated within the prison system.**

84. **The construction of a new prison, the "Justice for All" programme and presidential pardons (800 prisoners were pardoned in 2012) are helping to reduce prison overcrowding, but the lack of an effective criminal judicial system is at the core of the problem. There is no comprehensive and well-resourced legal aid programme; only a limited number of offences are bailable; pretrial detention is prolonged owing to inadequate police investigations, lost case files and a shortage of judges; sentencing policies result in excessively lengthy custodial sentences; remission of sentences is very limited; alternative measures are not implemented; and there is no parole system because of a lack of resources and trained officers.**

85. **International human rights standards are not met in the Ghanaian prison system. The extreme level of overcrowding extends to those on remand, the convicted and the condemned, and results in a number of serious violations: inadequate nutrition, insufficient access to medical care, poor sanitation, personal insecurity and the absence of rehabilitation services. These substandard conditions constitute cruel, inhuman and degrading treatment or punishment. On 1 March 2014, the Director-General of the Prisons Service established a transformational task force to help upgrade the prisons system so that it conforms to international standards.**

86. **In the past 20 years, no executions have been carried out; however, condemned prisoners experience the "death row phenomenon", which amounts to ill-treatment or even torture. The Government has set up a committee to move towards implementation of the recommendation to abolish the death penalty.**

87. **The ratification and implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment must be a priority, to allow a system of regular prison monitoring. The Commission on Human Rights and Administrative Justice currently monitors some places of detention and could become an effective monitoring mechanism, if adequately resourced to visit all places of detention regularly. However, it should not be considered as a substitute for effective complaints mechanisms.**

88. **The complaints system regarding allegations of torture and ill-treatment and the investigation, prosecution and punishment of perpetrators are provided for in law but not implemented, except in a very few cases. The lack of accountability is also the result of a very basic level of forensic services, which means that medical examinations, if carried out at all, are not conducted by independent forensic specialists but by poorly trained doctors, or even nurses, employed by the Ministry of the Interior.**

89. **While the Juvenile Justice Act (2003) and the Children's Act (1998) prohibit corporal punishment, such as caning, as a disciplinary measure in prisons, these laws must be effectively enforced and those who violate them must be held accountable.**

90. **Denying minors the right to be included in family visits to detainees is a violation of the prisoner's right to family contact and of the right of the child to have a relationship with parents who may be in the penitentiary system.**[13]

91. **There is no therapeutic justification for the use of prolonged restraint (both physical and chemical methods) of persons with disabilities and any involuntary**

[13] Convention on the Rights of the Child, art. 9.4. Separation from a parent can only be ordered if it is in the best interests of the child and on a case-by-case basis.

treatment of people with mental or intellectual disabilities for even a short period may constitute torture or ill-treatment (A/HRC/22/53, para. 63) if it is not required to prevent harm to the patients or others, and then only for as long as that harm is imminent. The use of electroshock treatment at the psychiatric hospital in Accra without adequate anaesthesia constitutes cruel, inhuman or degrading treatment. Such treatment requires that special attention be paid to whether free and informed consent has been given, as required by international law.

92. In the prayer camps, shackling of any duration, denial of food and medicine, inadequate shelter and involuntary treatment constitute torture.

93. There remains a social stigma prevalent in Ghanaian society about mental and intellectual disabilities, despite the adoption of the Mental Health Act. With the Act not yet in effect, there is no functioning oversight mechanism and prayer camps remain unregulated. Some provisions of the Act may not be in line with the Convention on the Rights of Persons with Disabilities and could be abused by health-care staff or family members.

B. Recommendations

94. In a spirit of cooperation and partnership, the Special Rapporteur recommends that the Government take decisive steps to implement the recommendations set out below, with appropriate financial and logistical assistance from the international community, including the United Nations and other actors.

95. With regard to the Constitution and legislation, the Government should:

(a) Incorporate clear legal provisions into the Constitution and national laws to the effect that the prohibition of torture is absolute and non-derogable, in accordance with article 2, paragraph 2, of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Take the necessary measures to ensure that torture is established as an offence in national law and adopt a definition of torture that includes all the elements contained in article 1 of the Convention. The Government should also ensure that such offences are made punishable by appropriate penalties which take into account their grave nature, in accordance with article 4, paragraph 2, of the Convention;

(c) Amend the Evidence Act, 1975, concerning evidence to be admitted in judicial proceedings, to bring it into line with the provisions of article 15 of the Convention to explicitly exclude any evidence obtained as a result of torture;

(d) Amend national laws to explicitly prohibit corporal punishment and limit the imposition of solitary confinement to a maximum of 15 days as disciplinary measures (A/66/268 para. 84).

96. With regard to safeguards and prevention, the Government should:

(a) Ensure prompt registration of all persons deprived of their liberty and periodically inspect custody records at police and prison facilities to make sure that they are maintained in accordance with the procedures established by law;

(b) Guarantee the right to a lawyer in all circumstances and without exception, and the right to be brought before a magistrate within 48 hours of arrest;

(c) Invest in an independent legal aid scheme, as recommended by the Constitutional Review Commission, to attract and retain more qualified lawyers and expand essential services to reach all regions and all offences from the moment of apprehension through all stages of criminal proceedings;

(d) Ensure that all detained persons are guaranteed the possibility of challenging effectively and expeditiously the lawfulness of their detention through habeas corpus;

(e) Video record all statements made to the police during the investigation and interrogation period as standard procedure. Such measures should be seen only as complementary to legal representation during all stages of the interrogation process;

(f) Ensure the right to an independent medical examination;

(g) Ensure any allegations of torture and ill-treatment are admitted at any stage of the trial and that courts are obliged to launch ex officio investigations whenever there are reasonable grounds to suspect torture or ill-treatment;

(h) Provide training programmes to sensitize prison officials to the importance of taking effective steps to prevent and remedy prisoner-on-prisoner abuse and ensure that inmates are not given any disciplinary authority over other inmates which condones the use of violence.

97. **With regard to prompt, thorough and impartial investigations, the Government should:**

(a) Establish an effective and independent mechanism that promptly and effectively investigates all allegations of torture or ill-treatment, prosecutes those responsible and, if they are found guilty, imposes administrative and judicial penalties that take into account the grave nature of their acts;

(b) Ensure that allegations of torture and ill-treatment are admitted at any stage of the trial and that courts are obliged to launch ex officio investigations whenever there are reasonable grounds to suspect torture or ill-treatment;

(c) Ensure that victims receive adequate compensation, including their full rehabilitation, and that they are not subject to reprisals;

(d) Ensure that medical staff are able to conduct independent medical examinations at the time of arrest, upon transfer to another place of detention, or upon request, without interference by law enforcement personnel or prosecutors;

(e) Train law enforcement officials and military personnel in international human rights law to ensure that national procedures are compliant;

(f) Develop the forensic capacity of the prosecution and judiciary and provide specific training for forensic experts on the assessment of ill-treatment and torture, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol).

98. **With regard to the monitoring and inspection of places of detention, the Government should:**

(a) Support prison monitoring and deliver on its commitment to prioritize, and take concrete measures to speed up, the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Consult with civil society to seek a consensus and designate the Commission on Human Rights and Administrative Justice as the national mechanism for the prevention of torture, in accordance with article 17 of the Optional Protocol;

(c) Strengthen the Commission by ensuring that it has an independent operating budget and sufficient financial and human resources to comply fully with the Principles relating to the Status of National Institutions (the Paris Principles) and

inspect all places of detention regularly. In addition to making unannounced visits, it should provide detailed reports, receive complaints, initiate or promote prosecutions, produce findings and implement recommendations;

(d) Encourage NGOs to undertake regular monitoring of places of detention and deliver much-needed medical and educational services, and provide training for law enforcement, health and legal professionals on international human rights standards and on detecting, reporting and preventing torture and ill-treatment.

99. **To address overcrowding, the Government should:**

(a) Accelerate the process of getting the maximum security prison in Ankaful operating at higher capacity by identifying prison staff and prisoners who can be transferred to this facility from surrounding prisons in Ankaful;

(b) Build residential staff accommodation at Ankaful maximum security prison so that more prison officers from around the country can be deployed and more prisoners transferred there;

(c) Identify a timeline and funding for the second phase of construction at Ankaful maximum security prison so the project can be completed;

(d) Identify low-risk prisoners in the central prisons and move them to open and farm camp prisons;

(e) Bring responsibility for remand inmates under the authority of the Prisons Service, rather than the Police Service, to ensure their attendance at court;

(f) Ensure that no remand inmates remain in prison beyond the expiry of their warrants;

(g) Expand the terms of reference of the "Justice for All" programme in two ways: geographically, so that remand prisoners in all regions are visited to check whether warrants have expired or time has already been served; and in scope, so that the programme is mandated to consider and accelerate cases, not only of pretrial detention, but also those for which appeals have been filed, or inmates have already served lengthy sentences, to see if those cases can be judicially reviewed and releases accelerated;

(h) Review non-violent offences for which bail is currently not available, to offer the possibility of bail and effective monitoring of cases to reduce the number of remand prisoners;

(i) Review the lengthy judicial proceedings that lead to a substantial number of prisoners on remand being denied the right to a trial within a reasonable period;

(j) Ensure that time spent in remand custody is taken into account during sentencing;

(k) Review sentencing policies to reduce or eliminate mandatory minimum sentences for lesser, non-violent offences and provide more reasonable sentencing guidelines in order to reduce excessively lengthy sentences;

(l) Extend eligibility for remission or commutation of sentences, parole or pardon to those serving lengthy sentences in addition to those "condemned" or serving life sentences, to whom this option has already been extended;

(m) Provide further training in judicial case management for judges and staff to implement a "fast-track system" for less serious cases and move them more efficiently through the criminal justice system;

(n) Provide a swift appeal process for the review of convictions and sentences;

(o) Divert some of the funds used for incarceration to support the work of the Judicial Committee established to consider alternative measures.

100. **With regard to conditions of detention, the Government should:**

(a) Recall that, regardless of the level of development of the country, it is obliged to ensure minimum standards of conditions of detention in accordance with the Standard Minimum Rules for the Treatment of Prisoners;

(b) Provide the minimum acceptable amount of floor space and cubic quantity of air per inmate, a separate bed and adequate sanitary conditions;

(c) Urgently improve access to, and the quality of, health care provided by the infirmaries by investing in them financially to ensure they provide a minimum standard of medical care, and employ a sufficient number of qualified doctors, including for psychiatric and dental care, in addition to medical assistants and nurses;

(d) Establish an independent body under the Ministry of Health to regulate and improve the quantity and quality of the food;

(e) Partner with the Ministry of Agriculture and the private sector to find additional resources to expand the farming programme to more prisons, especially the open prisons, in order to offset food costs and provide better variety and nutrition. Even prisons with a higher security classification could establish a secure setting and designate physical space inside the grounds for farming projects;

(f) End the practice of denying children under 18 the right to visit family members in prison, and establish meaningful family visits, including the ability to communicate in private without being overheard by renovating facilities to include basic amenities such as family visit centres;

(g) Realize the principles of rehabilitation and reintegration and seek assistance to provide all prisoners with the opportunity to access educational and work opportunities, including sustainable training programmes, such as in farming, cooking, trades and small business, in order to gain relevant skills that can be applied upon release;

(h) Seek donations from churches and NGOs to provide the prisons with books, writing materials and equipment such as sewing machines and woodwork or metalwork supplies and to support recreational activities.

101. **With regard to the death penalty, the Government should:**

(a) Give effect to the white paper of the Constitutional Review Implementation Committee, which was tasked with implementing the recommendations of the Constitutional Review Commission, and hold a referendum to change the Constitution, including an official moratorium and abolition of the death penalty;

(b) Commute all outstanding death sentences to term sentences and formalize the current de facto moratorium on the death penalty by abolishing the death penalty for murder, a statutory offence which does not require the Constitution to be amended;

(c) Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(d) Develop a public awareness strategy, in consultation with NGOs, to educate civil society about the cruel and inhuman treatment that results in persons being sentenced to death and detained for years on death row.

102. **With regard to juveniles, the Government should:**

(a) Expedite the ratification of the optional protocols to the Convention on the Rights of the Child (A/HRC/22/8, para. 123.1);

(b) Investigate all complaints of torture and ill-treatment of juveniles, in particular allegations of corporal punishment;

(c) Amend the Children's Act (1988) to explicitly prohibit all forms of corporal punishment of children in all settings, including in the home, in schools and in alternative care settings (ibid., para. 123.20) and educate the authorities and the public so that the practice of caning, in particular, is eradicated;

(d) Ensure the separation of juveniles on remand from adults, in compliance with international standards;

(e) Provide additional training to the judiciary and the Office of the Attorney-General so that bail and alternative measures are considered, and ensure that imprisonment is only used as an exceptional measure.

103. **With regard to women, the Government should:**

(a) Ensure that female inmates are protected from all gender-based violence;

(b) Uphold the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and implement alternative measures, especially for women who are pregnant or have dependents;

(c) Establish mother and baby units in all female prisons to promote the welfare of mothers and children, in accordance with article 3 of the Convention on the Rights of the Child.

104. **With regard to the Mental Health Act, the Government should:**

(a) Expedite the approval of the legislative instrument to implement the Act;

(b) Establish a properly constituted oversight board and commit itself to an explicit timeline for implementing the oversight mechanism and for the committee to maintain a registry and conduct inspections of facilities and centres which deal with persons with mental disabilities, including private prayer camps;

(c) Establish an independent tribunal mandated to hear complaints of persons detained under the Act and take steps to ensure that the jurisdiction of the tribunal is not restricted to persons in psychiatric hospitals, but also includes those detained in prayer camps;

(d) Amend the Mental Health Act regarding mental capacity and involuntary admission and treatment, to bring it into line with international standards, as outlined in the Convention on the Rights of Persons with Disabilities;

(e) Increase cooperation between the authorities in psychiatric hospitals and leaders in prayer camps to ensure that in all places where mental health patients are held for involuntary treatment they have access to health-care services and that those places are visited by independent monitoring bodies to guarantee the proper implementation of the safeguards established to secure the patients' rights;

(f) Ensure that no confinement takes place unless strictly required and that effective judicial review is available of the lawfulness of the admission and detention of all persons in mental health institutions, including prayer camps;

(g) Provide access to legal aid and establish a complaints mechanism and a remedy for cruel, inhuman or degrading treatment in psychiatric hospitals, or at

prayer camps or other residential care facilities, and protect individuals from possible reprisals;

(h) Initiate a public awareness campaign to sensitize communities about mental disability and the Mental Health Act;

(i) Educate health practitioners, traditional healers, law enforcement personnel and the judiciary to understand that persons with mental disabilities have human rights, including the right to autonomy and to be treated with dignity.

105. **With regard to psychiatric institutions and prayer camps, the Government should:**

(a) Regulate, control and supervise health-care practices, with a view to preventing ill-treatment, and improve the food, shelter and health care provided;

(b) Prohibit coercive and non-consensual measures, including the restraint and seclusion of people with mental disabilities, except to prevent harm to the patient and to others, and then only for the limited time and using the measures strictly required for that purpose;

(c) Prohibit non-consensual treatment, such as forced medication and electroshock procedures (A/63/175, para. 61), guarantee the provision of essential medicines, including medicine for pain treatment and psychotherapeutic substances of the most recent generation, in line with the minimum core obligations of the State with respect to the right to health and the prohibition of torture and inhuman or degrading treatment;

(d) Enact laws to prohibit the admission and treatment of children in prayer camps and ban inhumane practices in prayer camps, involving chaining and prolonged restraint, mandatory fasting, treatment without free and informed consent and denial of medication;

(e) Investigate and prosecute under the criminal law cases of alleged inhumane practices;

(f) Recruit more mental health professionals, such as psychiatric doctors and specialized nurses, so that a higher level of care is delivered to all persons with mental disabilities, including visits to prayer camps by qualified medical staff;

(g) Promote deinstitutionalization and, in consultation with the disabled community, create alternative forms of treatment, especially community-based treatment and support and including medical care and housing, so that persons can be discharged from hospitals and prayer camps.

106. **With regard to institutional reform, the Government should:**

(a) Increase the budget of the judiciary, the Office of the Attorney-General and the Prisons Service so that they can establish effective programmes to address the numerous challenges facing the criminal justice system;

(b) Give responsibility and sufficient resources to the Prisons Service to ensure that there are vehicles available to provide transportation for all inmates (both those on remand and those who have been sentenced) to court and to hospital when required, to ensure their right to a speedy trial and to medical treatment;

(c) Increase the budget of the Ministry of Health so that doctors and medical staff employed to deliver medical services in places of detention are independent ofthe Ministry of the Interior;

(d) Ensure that the Ministry of Health has an operational budget to implement the Mental Health Act and ensure that the Oversight Committee is properly funded;

(e) Ensure that victims obtain redress and fair and adequate compensation for violations of their rights, including the means for the fullest rehabilitation possible, establish mechanisms and programmes within the national health system to provide all victims with rehabilitation, and fund private medical, legal and other facilities, including those administered by NGOs, that provide medical, psychological and social rehabilitation.

107. **With regard to assistance by international and regional mechanisms, the Government could consider:**

(a) Inviting the Special Rapporteur on Prisons and Conditions of Detention of the African Commission on Human and Peoples' Rights to follow up on the present report, which would constitute a good practice;

(b) Inviting the special procedures mandate holders on violence against women and the right to health to follow up on cross-cutting issues, such as female genital mutilation, domestic violence, practices in witch camps and the realization of access to medical treatment, that the Special Rapporteur was unable to address in the present report;

(c) Encouraging donations from the international community to support the United Nations Voluntary Fund for Victims of Torture so that it can consider requests for assistance from NGOs that work to ensure that persons who have been tortured have access to medical care and legal redress.